

REMARKS

Amendments to the Specification

The specification has been amended to make the identification of elements consistent. No new matter has been added.

In the Non-Final Office Action mailed on February 19, 2004, the Examiner reviewed claims 1-20. The Examiner rejections claims 1-3, 5, 9-12 and 16-20 pursuant to 35 U.S.C. §102(b). In addition, the Examiner rejected claim 17 under 35 U.S.C. §112, second paragraph. The Examiner further indicated that claims 4, 6-8 and 13-15 would be allowable if rewritten to avoid their dependence on a rejected base claim. Applicant has amended its claims and believes all of its claims to be in condition for allowance.

Claim Rejections - 35 U.S.C. §112

The Examiner rejected claim 17 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended the language to address this issue. Accordingly, the rejection under 35 U.S.C. §112 has been overcome.

Claim Rejections - 35 U.S.C. §102

The Examiner rejected claims 1-3, 5, 9-12 and 16-20 pursuant to 35 U.S.C. §102(b) as being anticipated by US 4,392,558 to *Heibel*. With respect to claim 1, this

claim requires in pertinent part, “a caliper having a first brake pad and a second brake pad, said first brake pad moveable relative to said caliper.” Rather than find this feature specifically in the supposed §102 reference, the Examiner notes that he considers the “actuator housing 9” to be the caliper, noting that the brake described in *Heibel* to be a disc brake. However, there is no indication within *Heibel* that the actuator housing serves as a caliper. Indeed, the patent makes evident that the invention “relates to an actuator mechanism which could be applied to either disc brakes or drum brakes which are, in particular, for use in commercial vehicles.” [*Heibel*, column 1, ll 7-10]. Hence, there is no reason to believe that “actuator housing 9” of *Heibel* serves as an actuator housing and as a brake caliper housing, especially when *Heibel* indicates its use with a drum brake. For this reason, the rejection of claim 1 pursuant to §102(b) is improper because the reference neither explicitly or implicitly shows a caliper with two brake pads. Accordingly, claim 1 and its depends, claims 2-9, are in condition for allowance.

Claim 3 requires, “said caliper has a first hole having threads of about said first thread pitch....” Again, there is no showing that the actuator housing 9 is a caliper, much less a caliper having a hole with threads. For this additional reason, claim 3 is in condition for allowance.

Claim 10 has been amended to include the limitation, “wherein said second drive mechanism is configured to drive said brake actuator as a consequence of said brake engaging said brake actuator.” This feature is not shown by *Heibel*, that is, any such second drive mechanism is not engaged due to contact of the brake on the brake actuator. For this reason, claim 10 and its dependents, claims 12, 16 and 17 are in condition for allowance.

The Examiner indicated that claims 13-15 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has rewritten these claims accordingly. Therefore, these claims are in condition for allowance.

Claim 18 has been amended to include the limitation, “wherein step b) occurs after a predetermined frictional threshold is reached.” Claim 18 is thereby distinguished from *Heibel* which switches the speeds and force of the brake actuator as a consequence of “continued rotation of shaft 1.” [*Heibel*, column 4, ll 30-36]. For this reason, claim 18 and its dependent, claim 19, are in condition for allowance.

Claim 21 depends upon claim 1 and is in condition for allowance for this reason alone. In addition, claim 21 requires, “said first threaded member is coupled for movement with said second threaded member.” This feature is not shown by *Heibel*. Therefore, claim 21 is in condition for allowance.

Claim 22 depends upon claim 21 and is condition for allowance because of this dependence. Claim 22 further requires, “said second threaded member is decoupled from movement with said first threaded member at a predetermined condition.” This feature is not shown by *Heibel*. Therefore, claim 22 is in condition for allowance.

Claim 23 depends upon claim 10. Because of this dependence, claim 23 is in condition for allowance. In addition, claim 23 requires “wherein said brake is configured to create a force on said brake actuator to cause said second drive mechanism to drive said brake actuator.” There is no showing in *Heibel* that such a force is created on the brake actuator to engage any second drive mechanism. Therefore, claim 23 is in condition for allowance.

For the foregoing reasons, Applicant requests allowance of claims 1-19 and 21-23.

Applicant believes that additional fees in the amount of \$122.00 are required for one independent claim and two claims in excess of twenty. A check in the amount of \$122.00 is enclosed. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that the enclosed Response is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on May 18, 2004.

Theresa M. Palmateer